

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1385 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ASST. DIRECTOR OF AGRICULTURAL

Versus

DAHYABHAI MANGALBHAI PATELIYA

Appearance:

MR MUKESH R SHAH for Petitioners
MR YV SHAH for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 01/12/98

ORAL JUDGEMENT

RULE.

By way of this Special Civil Application, the petitioner Establishment seeks direction to quash and set aside the order dated 22.1.1998 passed by the Labour Court, Godhra in Recovery Application No.380/94.

2. The respondent-workman filed Recovery Application

No.380/94 before the Labour Court, Godhra under Section 33(C) of the Industrial Disputes Act, 1947, making demand of Rs.1,02,623.20 being the difference of salary on the basis of circular dated 17.10.1988 of the Road and Building Department of the State of Gujarat. As per the said circular, a daily wager on completion of 5 years' service, is entitled to be fixed in the minimum pay scale of Rs.750/- . In view of this, by order dated 1.7.1990, the respondent-workman was fixed at the minimum pay scale of Rs. 750/- + other benefits w.e.f. 21.1.1990. However, the said order was withdrawn by order dated 26.10.1990.

3. Respondent-workman contended before the Labour Court that as he was initially engaged as a daily wager in the year 1992, he was entitled to be fixed in the minimum pay scale with effect from 1997. This contention was accepted by the Labour court and directed to make payment for a sum of Rs.1,02,623.20.

4. It is contended by Mr M R Shah, learned Advocate that the Recovery Application was based on the office order dated 1.7.1990, and therefore, the Labour Court committed error in granting the monetary benefits prior to 1990. Mr Y V Shah, learned Advocate appearing for the respondent-workman initially contested this, but later on, to avoid the complication of raising industrial dispute under section 10 of the Industrial Disputes Act, submitted that he will be ready for the modifications of the order, if the pay scale of his client is fixed in the minimum pay scale of Rs.750/- as per the order dated 1.7.1990. The amount calculated for the period 21.1.1990 to the date of filing of the Recovery Application before the Labour Court in the year 1994, which is said to be Rs.40,800/-.

5. In view of the aforesaid, this Special Civil Application is partly allowed and the order of the Labour Court, Godhra, dated 21.1.1998, is modified to the extent that the respondent workman shall be paid a sum of Rs.40,800/- instead of Rs.1,02,623.02. The impugned order stands modified as indicated above. Rule made partly absolute. If the petitioner has any claim after the date of filing of Recovery Application in the year 1994, he may take appropriate remedy. By the interim order of this Court, a sum of Rs.25,000/- was deposited before this Court, which has been withdrawn by the respondent-workman. After adjusting the said amount, the amount due shall be paid within three months from today.

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msp.